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Alan R Loudermilk
LOUDERMILK & ASSOCIATES
Post Office Box 3607
Los Altos CA 94024-0607

In re Application of
Georges et al.
Application No.: 10/541,536
PCT No.: PCT/US03/25813
Int. Filing Date: 08 August 2003
Priority Date: 07 January 2003
Attorney Docket No.: DBT004PCTUS1
For: Systems And Methods For Creating, Modifying,
Interacting With And Playing Musical Compositions

DECISION

This is a decision on the petition under 37 CFR 1.137(b) filed on 26 January 2007. The petition under 37 CFR 1.182 filed on 28 September 2006 is also being treated, and the status of the application with regard to the outstanding issues under 37 CFR 1.497(d) is also addressed.

DISCUSSION

Petition Under 37 CFR 1.137(b)

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), this application became abandoned for failure to timely reply a full reply to the decision mailed on 07 June 2006; specifically, applicants did not timely resolve the issue of Mr. Damevski's name on the declaration. As noted in the following discussion of the petition under 37 CFR 1.182, this issue still has not been resolved to the extent that the application file still does not include a complete declaration document (that is, not a composite) signed by Mr. Damevski. For this reason, the required reply requirement has not been satisfied.

Regarding requirement (2), the petition fee is being charged to counsel's Deposit Account per the authorization filed on 26 January 2007.

Regarding requirement (3), the petition includes an appropriate statement of unintentional delay.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

Petition Under 37 CFR 1.182

In view of the filing of the petition under 37 CFR 1.137(b) filed on 26 January 2007, it is necessary to resolve whether the "required reply" has been filed. Resolution of this issue requires treatment of the merits of the petition under 37 CFR 1.182 filed on 28 September 2006. Review of the "Declaration And Statement Of Voislav Damevski" reveals that Mr. Damevski states in part that

I was originally named as a coinventor in international application number PCT/US03/25813. My name on this international application was listed as "Voit Damevski," as I often use Voit as my first name. My legal first name, however, is Voislav. Voislav and Voit are much like Robert and Bob. My first name was listed as Voit on international application number PCT/US03/25813, although in this application the declaration is using my legal first name of Voislav. If the use of Voit on international application number PCT/US03/25813, and the change to Voislav in this application, is an error, then this error was made without deceptive intent. Also, note that I signed the declaration in this application as "Voislav Damevski," although the typed portion is written as "Voislav ("Voit") Damevski."

Based on the totality of the evidence of record, including Mr. Damevski's statement, it would be appropriate to accept the name of "Voislav ("Voit") Damevski" *in lieu* of the name "DAMEVSKI, Voit" as nominated by the published international application. However, it would still not be appropriate to accept the declaration of record because applicants have not yet furnished a complete (i.e., not composite) declaration document signed by Mr. Damevski. For this reason, it would not be appropriate to grant the requested relief under 37 CFR 1.182 at this time.

Submission Under 37 CFR 1.497(d)

Since this case remains abandoned, further consideration of the merits under 37 CFR 1.497(d) would not be appropriate at this time. Such consideration would become appropriate upon the submission of an acceptable declaration document signed by Mr. Damevski. Such a document may name him as Voislav ("Voit") Damevski as discussed above.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

The declaration is **NOT ACCEPTED** under 37 CFR 1.497(d), without prejudice.

The petition fee under 37 CFR 1.182 is being charged to counsel's Deposit Account No. 50-0251. The petition fee under 37 CFR 1.137(b) is also being charged to Deposit Account No. 50-0251, per the Fee Transmittal letter filed on 26 January 2007.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.



George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459